

complaint

Mr P has complained that MCE Insurance Company Limited made a deduction from the market value it paid when Mr P made a claim under his motorbike insurance policy. The MOT for Mr P's motorbike had expired when it was stolen.

background

Mr P bought a motorbike insurance policy with MCE. In November 2017 he made a claim as his motorbike had been stolen. It was later found by police but had been set on fire. So MCE said it would deal with the claim as a 'total loss'.

MCE discovered that Mr P's motorbike had previously been declared a write off. And the MOT had expired six months before the theft. So it made a deduction from the market value it paid Mr P as it said both of these things would reduce the motorbike's value.

Mr P was unhappy about this. MCE reduced the deductions it made to 15% for the previous write off and; 10% for having no valid MOT.

Mr P asked us to look at his complaint as he was still unhappy. Our investigator thought that MCE had decided the original market value for Mr P's bike fairly and in line with the motor trade guides. And she thought the deduction MCE made of 15% was reasonable as the previous write off would've had a negative effect on the value.

She explained our general approach to cases where a vehicle doesn't have a valid MOT. She thought it was reasonable for MCE to make a small deduction from the market value provided it could show Mr P's motorbike would've failed the MOT. But MCE said it couldn't show this because Mr P's motorbike was destroyed by fire.

The investigator said that Mr P had been in poor health and this was a reason why he hadn't got round to obtaining a valid MOT certificate for his bike. Previous MOT results showed no advisories for the bike. As MCE couldn't show Mr P's bike would have failed an MOT, she recommended MCE refund Mr P the deduction it took from the market value of the bike for not having a MOT with interest.

MCE didn't agree. It said its terms and conditions clearly say that it may decline a claim if Mr P's motorbike doesn't have a valid MOT. It's a condition of the policy that his bike is maintained in a roadworthy condition. As MCE didn't decline his claim – but made a 10% deduction from the settlement – it believes it acted reasonably.

So MCE wants an ombudsman to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I think a deduction of 15% from the market value for the previous write off is reasonable as it fairly reflects the reduced market value of Mr P's bike due to its history.

MCE's policy says it provided insurance on the basis that Mr P's bike was roadworthy '*which will include a valid MOT certificate*'.

Mr P says the reason why his bike didn't have a valid MOT is because he was in poor health which meant it was very painful for him to ride his bike. He doesn't think it's fair for MCE to take a deduction from the settlement it paid him.

Mr P has provided medical evidence to show that he was off work and unwell for some of the period that his bike was without an MOT. Although I'm mindful of the period of time that passed – six months – I've taken into account the fact that previous MOT results show no advisories. I appreciate this isn't necessarily an indicator for future MOT results. But Mr P's motorbike was damaged by fire. This means MCE isn't able to show that Mr P's motorbike would have failed an MOT. And so in this case – and in line with our approach - I don't think it's fair for MCE to apply a deduction of 10% from the market value for this reason.

So I think MCE should increase the market value by the deduction it took for having no MOT certificate. And I think it should pay interest on the difference from the date it paid the claim to the date it pays Mr P at 8% simple interest a year.

my final decision

For the reasons I've given above, my final decision is that I uphold this complaint. I require MCE Insurance Company Limited to do the following:

- Pay Mr M the difference in the market value that it deducted for his bike not having an MOT certificate.
- If it's already paid the settlement, pay interest on the difference from the date it originally paid to the date it pays the difference at a rate of 8% simple interest a year.

If MCE Insurance Company Limited considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr P how much it's taken off. It should also give Mr P a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 18 August 2018.

Geraldine Newbold
ombudsman